

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) U02-0189-35	
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First Named Inventor Jonathan DeLine		Art Unit 2617	
Examiner Marcos L. Torres			

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

~~This request is being filed with a notice of appeal.~~

The review is requested for the reason(s) stated on the attached sheet(s).
 Note: No more than five (5) pages may be provided.


I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
 See 37 CFR 3.7.1. Statement under 37 CFR 3.73(b) is enclosed.
 (Form PTO/SB/96)

☒ attorney or agent of record.
 Registration number 38,194

☐ attorney or agent acting under 37 CFR 1.34.
 Registration number if acting under 37 CFR 1.34 _____


 Signature
Michael G. Johnston
 Typed or printed name
 919-286-8000
 Telephone number
 6-7-07
 Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Jonathan DeLine)	
)	Confirmation # 2432
Application No. 10/708,433)	
)	
Filed: March 3, 2004)	
)	
Examiner: Marcos L. Torres)	
Group Art Unit: 2617)	
)	
Title: APPARATUS FOR MOBILE)	
TERMINAL DISPLAY)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REMARKS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants submit that the current and preceding office actions issued by the Examiner in the present application contain clear errors in the Examiner's rejections as well as omissions of one or more essential elements needed for a *prima facie* rejection under 35 U.S.C. § 103.

The present invention is directed a mobile terminal for use in a wireless communication system. The mobile terminal comprises a housing, a display movably mounted to the housing for movement relative to the housing, and a flip cover pivotally mounted to the housing and movable relative to the housing and the display. Means for rotating the display, such as a rotational joint, is provided between the housing and the display for allowing the display to rotate relative to the housing and the flip cover.

Independent claims 4 and 6 both contain recitations related to rotation of the display relative to the housing and the flip cover. The Examiner rejected these claims under 35 U.S.C. § 103 over U.S. Patent Application Publication No. 2002/0158999 A1 to Shima in view of Mizuta (EP 1298890).

Shima discloses an electronic apparatus with pivotally-connected first and second housing portions. A display is pivotally mounted between the housing portions for pivotal movement along the same axis as the housing portions. (See Fig. 12 of Shima). Shima does not disclose rotation of the display relative to the housing portions in a direction perpendicular to the axis of the pivotal mounting. The examiner relies on Mizuta for this deficiency. Mizuta discloses a typical jackknife mobile terminal wherein the two housing portions are pivotally connected and the housing with display is rotatable relative to the housing portion about an axis perpendicular to the longitudinal axis of the first housing portion.

Applicants re-iterate, with respect to all of the claims, the arguments made in the office action response of February 12, 2007, particularly in the sixth paragraph of the Remarks/Arguments section. Specifically, the examiner has not made a *prima facie* case for obviousness since there is no motivation or suggestion to combine the references. Shima discloses a pivoting three-part phone wherein all of the parts pivot about the same axis. Mizuta merely shows a two-part jackknife phone with the traditional housing and flip cover, as is well known. In fact, as a point of emphasis, FIGs. 2-3 of Mizuta show a prior art mobile terminal which has the same basic functionality as the Mizuta phone—a rotatable flip cover. Mizuta merely improves on a rotational joint for mounting the display.

Applicant's contention is that the examiner's argument is merely hindsight reconstruction in view of the presently claimed invention. Shima fails to recognize and thus realize the advantages which the Applicant has achieved in his invention, much less provide the motivation to combine with Mizuta. Because there is no motivation or suggestion in Shima to look to Mizuta for a design for a mobile terminal as presently claimed, Applicant respectfully requests that the examiner withdraw the rejection.

The examiner argues that Shima and Mizuta are directed to help the user easily view the display in a folding mobile device. However, Applicant notes that the Shima display is two-sided for allowing the user to view the display whether the terminal is open or closed. (See Shima at para. [0069]). Thus, one of ordinary skill in the art would not be motivated to look to Mizuta to cause the display to be rotatable relative the housing portions.

As the Examiner's rejection has been shown to be in clear error and lack essential elements of a *prima facie* obviousness rejection, it is requested that these claims be allowed to issue.

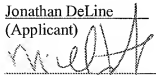
Although the Applicants' believe that no fees are due for this submission, the Commissioner is hereby authorized to debit any extra amount owed to deposit account no. 13-4365.

Respectfully submitted,

Jonathan DeLine
(Applicant)

Date: 6-7-07

By:


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